

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
JULY 9, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, DiDonna, Olvany, Voigt and Spain (arrived at 8:20 P.M.)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Ms. Cameron Chaired the meeting in Mr. Spain's absence. She read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Special Permit Application #47-E/Site Plan, Darien Community Association, 274 Middlesex Road. Proposing to install parking lot lighting, and a deer fence, and perform related site activities. The subject property is located on the south side of Middlesex Road, approximately 750 feet northeast of its intersection with Libby Lane, and is shown on Assessor's Map #20 as Lot #42 in the R-1 Zone. *PUBLIC HEARING OPENED ON JUNE 25, 2013 AND WAS IMMEDIATELY CONTINUED TO JULY 9, 2013.*

Mr. Ginsberg said that the Zoning Board of Appeals (ZBA) had granted a variance, Calendar Number 41-2013 for the installation of the deer fence. Attorney Bruce Hill represented the applicant and explained that the Environmental Protection Commission (EPC) had also approved the project at its meeting on June 5, 2013. He said the ZBA variance of the setback of the fence was granted for the side yard and rear yard but not for the front yard, adjacent to Middlesex Road. He said that since the DCA is a Special Permit use, they still need approval from the Planning & Zoning Commission.

Attorney Hill explained that the plan of the DCA is to revive the bird sanctuary and the westerly portion of the property. A deer fence is necessary in order to prevent the deer from over feeding on the understory of vegetation which would destroy much of the wild bird habitat. He said that the deer fence would protect the westerly portion of the site, which contains approximately 8 acres of land in total. He said that the ZBA denied the front setback variance request so the deer fence will be about 40 feet from the stone wall adjacent to Middlesex Road. He said that a small portion of the fence goes through a wetland area in the southwest corner of the site and that aspect of the project has been approved by the EPC. He said that many of the invasive plant species have been removed and foot paths through the bird sanctuary have been created by volunteers working on behalf of the DCA. He said that the bird sanctuary will be open to the public at some times but the public use will not be allowed to interfere with the private uses that take place at the DCA facility.

Attorney Hill explained that the second part of the application is to install safety lighting in the parking lot areas to the east and southeast of the main building. Twelve new light poles will be installed on the south and east sides of the parking lot. He said that the current lack of lighting is actually hazardous for people that are leaving the evening meetings and events at the DCA house.

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Special cut off fixtures will be utilized so that the light source and glare will not be visible to the neighboring property owners. He said that the lights will be on timers so that they will automatically go dark after the events have concluded at the site. He said that the easterly light fixtures in the main parking lot will be used routinely. The lights on the southerly side of the parking area will only be used on occasions when they are absolutely necessary.

Attorney Hill said that the DCA contacted the neighboring property owners and met with them on several occasions to show them examples of the light fixtures to be used. Some of the neighbors are still concerned and the DCA agreed to custom make a series of shields like baffles that will be installed on the residential side of the light fixtures near the easterly property line. He said that the installation of lighting is to deal with the existing safety problem and would not increase the programming or hours of operation of the DCA facilities. To address other concerns of the neighbors, DCA is currently looking into replacing the lighting fixtures on or near the building with new low light bollards. He said that the new light poles on the east and south sides of the parking lot will be a maximum of 10 feet tall.

Attorney Hill said that the hours of operation of the DCA house are restricted by the 2000 approval granted by the Planning & Zoning Commission. In summary, the DCA concludes all meetings on week nights by 11 P.M. and on weekends, activities are concluded by 1 A.M. He said that most events actually end earlier so that everyone is gone from the site by those curfew hours. He said typically the meetings or events are scheduled to conclude half an hour before the curfew.

There were no questions or comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will make a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

At 8:20 P.M., Mr. Spain arrived at the meeting and read the following agenda item:

Continuation of Public Hearing regarding Subdivision Application #131-A, Coastal Site Plan Review #288, Flood Damage Prevention Application #329, Land Filling & Regrading Application #308, Margaret C. Hand, 25 Brush Island Road. Proposal to resubdivide the existing property into two building lots and construct a single-family residence and swimming pools on each lot, and perform related site development activities within regulated areas. The subject property is located approximately 1,300 feet west of the intersection of Nearwater Lane and Brush Island Road, and is shown on Assessor's Map #56 as Lot #17 in the R-1 Zone. *PUBLIC HEARING OPENED ON JUNE 25, 2013 AND WAS CONTINUED TO JULY 9, 2013.*

Thomas Nelson of McChord Engineering represented the applicant. Mr. Ginsberg noted that the Planning & Zoning Commission had received the memo and attachments from David Keating, Zoning Enforcement Officer, regarding the setbacks and buildable area on the proposed rear lot. He said that these revised setbacks leave a considerable buildable area outside of the Environmental Protection Commission (EPC) jurisdiction and outside of the Flood Hazard Zone and 100 foot critical Coastal Area Mangement area around Holly Pond. Mr. Ginsberg said that comments from EPC had also been received and distributed to the Commission members. The EPC is acting as a Conservation Commission in this respect because they have advisory comments. No actual development is proposed within their jurisdiction at this time. Mr. Ginsberg said that the

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Commission has also received a memo from David Knauf of the Darien Health Department regarding the septic systems.

Mr. Nelson said that part of the revised drawings relocate the proposed boundary line separating the front lot from the back lot. This allows the existing house to remain in place even when the property is to be divided. The revised drawings also establish a special 90 foot setback from the neighboring front lot and thus has a different building area compared to the original proposal. Ms. Cameron said that the proposed revised lay out and setbacks are much better than the original proposal.

Mr. Nelson explained that the conceptual design plans show that both parcels can be easily developed in accordance with the current Regulations. There is no actual construction or development activity which is proposed at this point. If the current or future property owner wants to develop the property, then specific plans for their development will need to be reviewed by the staff and/or Planning & Zoning Commission. Mr. Olvany said that the actual design, particularly for the rear lot, will be subject to considerable review by the Commission, and depending on the location of the house, it may need special approval by the Commission.

Mr. Spain said that the Commission has reviewed the original application and the proposed revised setback and buildable area and will need to decide which approach is correct. He said that the resolution or decision of the Commission will need to take into account the unique attributes of the site and will reflect whatever decision the Commission makes.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Ms. Cameron, seconded by Mr. Cunningham and unanimously approved.

Chairman Spain opened the general meeting and read the following agenda item:

GENERAL MEETING

Amendment of Site Plan Application #281/Special Permit, Town of Darien, 35 Leroy Avenue.

Amendment of Special Permit #23-A, McGuane Field, Noroton Avenue/West Avenue.

Request by Registrar of Voters to amend existing Special Permits for McGuane Field and for 35 Leroy Avenue to establish those locations as polling sites for elections.

The two Registrars of Voters, Kathy Hammell and John Visi, explained that they need to make changes in the places where people vote within several of the voting districts in Darien. At Ox Ridge School, there is a long walk between the parking area and the entrance to the building and part of that walk involves a steep ramp. There are also times when voting conflicts with school when it is in session. At the Darien High School, sometimes there are parking conflicts even when school is not in session due to other uses taking place on the site. Security is a concern that the Board of Education has and so it is appropriate that the Registrars arrange for other voting places in the community. The two approvals being sought at this time, for 35 Leroy Avenue and at McGuane Field, are both facilities that are subject to a Special Permit approval by the Planning & Zoning Commission. Since conducting voting and polling places were not contemplated when these

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facilities were operated it will require an amendment of the Special Permits in order to establish the voting facilities.

The Board of Education has agreed to allow the temporary and occasional use of their facilities at 35 Leroy Avenue as a polling place. It has sufficient on-site parking to accommodate the elections. The other proposed use is at the building at McGuane Field. This is property owned by the Town but the building is under the jurisdiction of the Darien Little League. Again, there is sufficient on-site parking to facilitate the elections. Commission members suggested that the Registrars might want to install additional, temporary lighting to lead from the parking areas to the polling place.

Mr. Spain said that under the standards of Section 1005 regarding Special Permit uses, it appears that the criteria have been satisfied and that the use of these facilities for the elections would not have any detrimental impact to the surrounding properties and that sufficient provision is made for public access to the polling places.

The Registrars said that they are continuing to work with the Board of Education and may need to come back to the Planning & Zoning Commission if any of the other polling facilities need to be relocated.

The following motion was made: That the Planning & Zoning Commission approve the request to amend the Special Permits to allow the election polling facilities as detailed in the correspondence and as discussed at the meeting. The motion was made by Mr. Cunningham, seconded by Mr. Olvany and unanimously approved.

Chairman Spain read the following agenda item:

Amendment of Special Permit #60-L/Site Plan, Country Club of Darien, 300 Mansfield Avenue.

Proposal for cart barn addition.

Brad Jonkers, Project Architect, explained that the golf club wishes to establish an indoor practice hitting area and this will result in the relocation of some storage facilities and the expansion of the existing cart barn. The proposed 50'x47' addition would be constructed over a paved area and a new paved area would be constructed for the outside activities including the washing of the carts. The drainage system will be extended to pick up water from the new paved area. Eventually that water is discharged towards Mansfield Avenue. He said that the proposed cart barn addition would be visible from the first tee within the golf club, but would not be visible as you drive into the site. It is a considerable distance from any neighboring properties to the proposed cart barn. The expansion of the building will be to accommodate the new indoor practice facility and it will not increase the number of carts on the site. There are other internal changes to the proposed building, including a waiting area instead of an office.

The Commission members reviewed the proposed plans and questioned the drainage facilities and landscaping that would be added. Mr. Jonkers agreed that detailed drawings of the drainage and planting could be provided. The following motion was made: That the Planning & Zoning Commission approve the requested modifications subject to the submission of detailed drawings of the drainage system and plantings that will occur. Those detailed plans will be subject to review

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and action by the Director of Planning. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

Chairman Spain read the following agenda item:

Amendment of Special Permit Application #80-C, St. John Roman Catholic Church, 1986 Boston Post Road.

Proposal to increase size of existing day care from 45 to 48 children.

Mr. Ginsberg said that the Planning & Zoning Commission had previously approved a Special Permit to allow no more than 45 children in the day care facility. The facility can accommodate many more children than that, but that was the request submitted and what was previously approved. Now the Church is requesting an update to allow up to 48 children within the day care facility. They are in the process of obtaining their licenses from the State and want the Town's approval to match the request submitted to the State. The Planning & Zoning Commission noted that there is more than adequate on-site parking and safe drop off area for the children in the day care facility. Mr. Ginsberg said that there are no issues regarding the Fire Marshal. The following motion was made: That the Planning & Zoning Commission approve the requested increase in the number of participants in the day care facility from 45 to 48. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

Chairman Spain read the following agenda item:

Amendment of Business Site Plan #177-C/Special Permit, Ken Kronberg, 1358 Boston Post Road

Request for outdoor storage, including: ice machine, and propane tank refill/sales.

Mr. Ginsberg explained that in 2002 the Planning & Zoning Commission approval for the gas station and indoor sales facility was very specific that no outdoor sales or activities are authorized or permitted. Since then, there have been numerous zoning enforcement issues and violations by the operators of the station. Those violations have been corrected and Mr. Kronberg is now requesting approval to conduct retail sales in very specific locations outside of the building and to have a propane tank exchange facility on the site. The cage which will contain the filled propane tanks and will be located on the right rear portion of the site, adjacent to the parking lot of the Gardener Center. There was some discussion about the use of concrete barriers versus bollards or poles. The Fire Marshal will need to decide which is acceptable or appropriate. Commission members felt the bollards would be much more appropriate than the large concrete barriers.

In response to questions, Mr. Kronberg said that the dumpster area on the rear portion of the property would be made wider so that it would have a larger capacity. In response to questions about the safety of the propane, a representative of ParaCo Gas Exchange said that they have never had a safety problem in any of the 750 units that they have installed and maintain. He said that propane needs to be at 900 degrees to ignite, but first it needs to vaporize and then have a very hot spark. Mr. Kronberg said that there would be 3 or 4 feet from the back of the cage structure to the property line. He also noted that there are two houses to the rear of his gas station that have been abandoned. Mr. Ginsberg suggested that the proposed location of the cage be relocated to that it is a little farther from the Boston Post Road than illustrated on the submitted plans. This would

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provide better access to the gas transfer cage. The applicant said that there would be no filling of the tanks at the site. Full tanks would be delivered to the site by the ParaCo employees and empty tanks that are stored in the cages would be removed. There is no reason for the on-site employees or the customers to open either the full or empty tanks. He said that the location meets the minimum requirement of 10 foot separation from any source of ignition.

Mr. Ginsberg said that the Fire Marshal will exert jurisdiction over the proposed facility if it is approved by the Planning & Zoning Commission. Mr. Spain asked if the gas exchange facility will be operated at the same hours as the gas station and convenience store. Mr. Kronberg acknowledged that it would be and the gas station is not open 24 hours a day. When the gas station is not in operation, the propane tanks will be locked up and will not be accessible to the customers. Commission members said that they greatly prefer the sunken bollards compared to the concrete highway divider system of separation.

Commission members questioned the location of the outdoor sales activities. Newspapers will need to be controlled so they will not blow away. Mr. Kronberg said that the items for sale, such as ice and propane and convenience items, will be restricted to the areas as specifically shown on the submitted plan.

The following motion was made: That the Planning & Zoning Commission approve the requested outdoor sales activity including the propane exchange facility as shown on the submitted plans subject to the modification that the cage facility be relocated farther from the Boston Post Road as discussed at the meeting and subject to compliance with all Fire Marshal requirements and with the advisory comment that the Commission members greatly prefer the sunken bollards compared to the concrete highway divider system of separation. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved.

Chairman Spain read the following agenda item:

Amendment of Coastal Site Plan Review #222-A, Flood Damage Prevention Application #244-A, Land Filling & Regrading Application #176-A, Kane, 147 Five Mile River Road.

Request to install 15' x 15' plunge pool.

Commission members discussed the request to install a 15' by 15' pool to the east of the proposed house. Mr. Ginsberg said that revised plans of the pool location have been submitted. Commission members noted that the originally approved plans for the development and the already approved modifications helped to illustrate the site conditions and what had been previously approved. The new drawing is dated 2-28-13, Sheet 1 of 1. Commission members concluded that the proposed pool would not have any impact on the coastal resources and was an acceptable modification. The following motion was made: That the Planning & Zoning Commission approve the installation of a 15' by 15' pool as shown on the revised plans. The motion was made by Ms. Cameron, seconded by Mr. DiDonna and unanimously approved.

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Chairman Spain read the following agenda item:

Deliberations and possible decisions on the following:

Special Permit Application #66-M, Darien YMCA, 2420 Boston Post Road. Proposing to modify previously approved hours of operation. The subject property is located on the south side of Boston Post Road, approximately 350 feet east of its intersection with Weed's Landing, and is shown on Assessor's Map #53 as Lot #60 in the R-1/2 Zone.

The following motion was made: That the Planning & Zoning Commission waive the process of read each draft resolution aloud because Commission members have had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Voigt, seconded by Ms. Cameron and unanimously approved.

Commission members discussed Condition C which would limit the approval to a three year time period. The annual submission of special events should include a mention of any complaints or comments from the neighbors regarding the extended hours of operation. Commission members asked that the draft resolution be amended to include the specific times within the resolution. Mr. Ginsberg will make that modification.

The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the requested extended of hours of operation of the YMCA on a temporary basis and subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron and seconded by Mr. Olvany. All voted in favor of the motion except Mr. Voigt who abstained because he had not been at the hearing. The motion passed by a vote of 5-0-1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JULY 9, 2013**

Application Number: Special Permit Application #66-M

Street Address: 2420 Boston Post Road
Assessor's Map # 53 Lot #60

Name and Address of Property Owner:	The Darien Young Men's Christian Association (YMCA) 2420 Post Road Darien, CT 06820
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Name and Address of Applicant: And Applicant's Representative:	Robert F. Maslan, Jr., Esq. Maslan Associates, PC 30 Old King's Highway South Darien, CT 06820
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Activity Being Applied For: Proposing to modify previously approved hours of operation.

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Property Location: The subject property is located on the south side of Boston Post Road, approximately 350 feet east of its intersection with Weed's Landing.

Zone: R-1/2

Date of Public Hearing: June 18, 2013

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: June 7 & 14, 2013

Newspaper: Darien News

Date of Action: July 9, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of

Action: July 19, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use is described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application is to modify the previously approved hours of operation. It was noted at the public hearing that a 1995 Stipulated Judgment restricted the morning opening times at the YMCA. This application does not change closing hours, any other aspects of the Stipulated Judgment, or any of the prior Planning and Zoning Commission approvals for this property. The early morning hours requested herein will allow the YMCA to open at 5:00 A.M. on Monday through Friday, and 7:00 A.M. on Saturday and 8:00 A.M. on Sunday. More specifically, proposed hours of operation are:

<u>Days</u>	<u>Requested Hours</u>
Monday through Friday:	5:00 A.M. to 10:00 P.M.
Saturday	7:00 A.M. to 7:00 P.M.
Sunday	8:00 A.M. to 6:00 P.M.
2. The submitted application materials presented a number of developments at the YMCA which have occurred in recent years, which the YMCA noted were justification for extending their

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morning hours. A June 13, 2013 letter was submitted from Attorney Robert Maslan showing gates to be placed on the property to guide early morning visitors toward the middle of the existing parking lot to be less intrusive on the nearby property owners.

3. This application does not change the maximum number of members allowed at the YMCA.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed. The neighbors within 100 feet of the YMCA property were notified of the hearing via certified mail, and one neighbor from across the street attended the public hearing, and expressed concern about the possible glare of headlights as YMCA participants depart from the site. No written comments from neighbors were received for the record.
5. As required by Section 1005a, the Commission finds that the location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that, as revised, the application is in harmony with the orderly development of the district in which it is located.
6. Per Section 1005b, the Commission finds that the application, as required to be modified herein, and the location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. The Commission finds that the elements of the Site Plan submitted as part of the Special Permit application shall accomplish the objectives for Site Plan approval as specified in Subsection 1024.
8. Per Section 1005d, the Commission finds that the design, location, and specific details of the proposed use and site development, as required to be modified herein, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
9. The Commission finds, per Section 1005g, that consideration has been given to the protection, preservation and/or enhancement of the natural environment.
10. The location and size of the use and the nature and intensity of the proposed operation, as required to be modified herein, conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
11. The elements of the Site Plan, submitted as part of the application, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

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NOW THEREFORE BE IT RESOLVED that Special Permit Application #66-M is hereby GRANTED WITH STIPULATIONS subject to the foregoing and following stipulations, modifications and understandings

- A. Activity shall be in conformance with the plans entitled:
 - The Darien YMCA Phase 2, Sheet SE1, showing the location of four gates to be placed on the property at 9pm and removed at 8am.
- B. In order to minimize impacts of vehicles, vehicle lights, and noise, early arriving employees and clients shall not park on the parking areas closest to neighbors, both to the west and to the east. This is an integral part of the YMCA's proposal, as it will help minimize the potential impacts of vehicles, vehicles lights and noise on neighbors.
- C. The Commission hereby approves the hours requested in Finding #1, above. While the Commission is confident that the YMCA will do its part to minimize the potential impact upon the neighbors, it is wise to make the very early hours of operation a temporary approval that shall remain valid for only the next three years, and shall expire on July 9, 2016. If any unforeseen problems caused by the very early hours of operation are not addressed and corrected by the YMCA, then the Commission could choose not to extend the very early hours of operation. If there are no problems or if the problems have been adequately addressed, then the Commission could extend, or make permanent, the very early hours of operation. If the YMCA wishes to extend the modified hours of operation, a subsequent request shall be made sometime between February 2016 and July 2016. The Commission may or may not decide to hold a public hearing on such a request.
- D. It is the YMCA's responsibility to monitor this early morning parking. The Commission strongly recommends that the YMCA publicize the parking locations for those arriving in the early morning hours.
- E. All other conditions, stipulations, and requirements of all prior Special Permits, unless superceded herein, shall remain in full force and effect.
- F. The granting of this Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 9, 2014). This may be extended as per Sections 1009 and 1028.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials, including the filing of a Special Permit form in the Darien Land Records, shall be done within 60 days of this action and

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prior to the implementation of the earlier hours in order to finalize this approval or this approval shall become null and void.

Chairman Spain read the following agenda item:

Land Filling & Regrading Application #307, Tomas & Ana Maria Chadwick, 6 Sylvan Road.

Proposing to construct a circular driveway from the existing driveway to Sylvan Road; install a retention system for the new impervious areas, and perform related site development activities. The subject property is located on the south side of Sylvan Road, approximately 150 feet east of its intersection with Brookside Road, and is shown on Assessor's Map #11 as Lot #26 in the R-1 Zone.

Commission members discussed the draft resolution. Ms. Cameron said that the proposed driveway would be much safer than the existing site conditions. After further discussion, the following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the proposed filling and regrading subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Ms. Cameron. All voted in favor except Mr. Voigt who abstained because he had not attended the public hearing. The motion passed by a vote of 5-0-1.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 9, 2013**

Application Number: Land Filling & Regrading Application #307

Street Address: 6 Sylvan Road
Assessor's Map #11 Lot #26

Name and Address of Applicant &: Tomas & Ana Maria Chadwick
Property Owner: 6 Sylvan Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Doug DiVesta, PE
DiVesta Civil Engineering Associates, Inc.
51 Painter Ridge Road
Roxbury, CT 06783

Activity Being Applied For: Proposing to construct a circular driveway from the existing driveway to Sylvan Road; install a retention system for the new impervious areas, and perform related site development activities.

Property Location: The subject property is located on the south side of Sylvan Road, approximately 150 feet east of its intersection with Brookside Road.

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Zone: R-1

Date of Public Hearing: June 18, 2013

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: June 7 & 14, 2013

Newspaper: Darien News

Date of Action: July 9, 2013

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:

July 19, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to construct a circular driveway from the existing driveway to Sylvan Road; install a retention system for the new impervious areas, and perform related site development activities.
2. Stormwater management has been proposed by the applicant. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

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NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #307 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Chadwick Residence 6 Sylvan Road, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., last revised 05/17/13, Sheet 1 of 2.
 - Chadwick Residence 6 Sylvan Road, Details, by DiVesta Civil Engineering Associates, Inc., last revised 05/17/13, Sheet 2 of 2.
- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the plans noted in Condition A, above, and other measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. By September 9, 2013 (within the next 60 days) a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 6 Sylvan Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work around the house.
- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Zoning Compliance, the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading have been completed in compliance with the approved plans and the agreement referred to in Condition A, above.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 9, 2014). This may be extended as per Sections 858 and 1009. By July 9, 2014, the applicant shall complete the project and submit written verification from the design engineer that the grading and drainage have been properly implemented and are functioning as designed and intended.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work proposed as part of this application, or this approval shall become null and void.

Chairman Spain read the following agenda item:

Special Permit Application #276, One Ten Post Road Partners, LLC, Post Modern Home, 110 Boston Post Road. Proposal to establish Post Modern Home--a business specializing in refurbished, restored furniture which will also offer refinishing to the trade; to be located in the first floor space occupied by Goldenberry. *HEARING CLOSED: 6/25/2013.*

Commission members reviewed the draft motion to approve the project. They discussed the need to specify that there would be no stripping or refinishing of furniture or chemical processes taking place at the site. If the business operator wants to sell small touch-up size containers of the chemicals that would be acceptable but there would be no commercial operations utilized in the site and no large quantities of chemicals at the site. Revised language was discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 9, 2013**

Application Number: Special Permit Application #276

Street Address: 110 Boston Post Road
Assessor's Map #32 Lot #4-#6

Name and Address of Property Owner: One Ten Post Road Partners, LLC.

PO Box 1143
Darien, CT 06820

Property Location: The subject property is on the south side of Boston Post Road approximately 750 feet west of the Norwalk City Line.

Zone: SB-E

Date of Public Hearing: June 25, 2013

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: June 14 & 21, 2013

Newspaper: Darien News

Date of Action: July 9, 2013

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: July 19, 2013

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 670, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted application materials, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application seeks a Special Permit to establish Post Modern Home--a business specializing in refurbished, restored furniture which will also offer refinishing to the trade (off-site only); to

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be located in the first floor space occupied by Goldenberry. No changes are proposed to the exterior of the building, other than a proposed sign.

2. A 2008 survey was submitted as part of the application. Noted on the survey is the fact that the Goldenberry space is 4800 square feet, and there are other tenants in the building. The survey shows 20 parking spaces in front of the building and 42 in the rear. The applicant noted that the amount of customers and traffic is low, and the facility is geared more toward designers, than the general public.
3. At the public hearing, the applicant, Andrew Clark, explained how his business should be considered by the Commission as a Principal Use requiring a Special Permit under Section 674e of the Zoning Regulations, a "Home improvement contractors, home improvement suppliers and other similar service contractors." Much of the refinishing is of furniture, but some of the items could be built into the home or business, such as cabinet. At the public hearing, he explained that there will be some loading and unloading of furniture on-site, with some of that using the existing loading dock. Some items will be brought by the customers directly to the applicant's Norwalk facility to be refinished, and in some cases, the customer will bring them to 110 Boston Post Road, and the applicant will bring them to Norwalk. No refinishing will occur on-site. No refinishing chemicals or hazardous materials in commercial quantities shall be stored on-site. Small samples or retail size touch-up are allowed.
4. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
5. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
7. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #276 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. The Commission finds that the proposed use as described by the applicant is considered a “Home improvement contractor, home improvement supplier and other similar service contractor”. This use is allowed in the Service Business East Zone by Special Permit. The proposed tenant shall be in conformance with the submitted application materials and the representations made by the applicant at the public hearing. The Commission is approving the specific use. The Commission is not approving a general retail sales establishment. Any change of use or tenancy will require prior review and action by the Commission.
- B. No furniture finishing or refinishing shall occur on-site. Refinishing to the trade may be done off-site.
- C. Because of the fact that all of the proposed work is interior work, the Commission hereby waives the requirement for stormwater management under Sections 888a(3) and 888a(4).
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 9, 2014). This may be extended as per Section 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit shall be filed in the Darien Land Records within 60 days of this approval.

Chairman Spain read the following agenda item:

Discussion and deliberation only on:

Coastal Site Plan Review #285, Land Filling & Regrading Application #302, James & Janeen Eckert, 165 Long Neck Point Road. Proposing to construct an in-ground pool, retaining walls, and expand on-site drainage, and perform related site development activities within a regulated area.

Commission members discussed the project. It was noted that the cedar trees to be planted would be placed on top of fill and therefore would be higher than the existing grade. The argument by the neighbor that visibility of the coastal resources from Long Neck Point Road is not a valid issue because there are so many other things that block the visibility from the street. There is no public view or vista to the water that is being interfered with. Commission members noted that the applicant did volunteer to keep the new planted trees trimmed down to a certain height but they said that those trees would not be visible from the street anyway. The pedestrian easement through the

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Eckert property will be preserved. Public views do not really apply here and the proposed work is not affecting any public view. The Commission does not have the right to try to establish or protect a private view through a property. The raising of the grade level by 4 feet in some locations does seem reasonable to establish a flat terrace and lawn area. Commission members discussed whether the putting green or house addition should be acted on as part of this application. The attorney for the neighbor asked that the Commission do so. They felt that they are collateral issues, not directly related to the pending application. Staff will draft a resolution for consideration at a future meeting.

Chairman Spain read the following agenda item:

Approval of Minutes

June 4, 2013 Public Hearing/General Meeting

Several minor modification and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the revised and corrected minutes. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

June 11, 2013 Public Hearing/General Meeting

Several clarification and modifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the revised and corrected minutes. The motion was made by Ms. Cameron and seconded by Mr. Voigt. All voted in favor except Mr. Cunningham who abstained because he had not attended the June 11, 2013 meeting. The motion was passed by a vote of 5-0-1.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Ms. Cameron and unanimously approved. The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director